

REMARKS

Claims pending in the instant application are numbered 1-34. Claims 1-34 presently stand rejected. The Applicant respectfully requests reconsideration of the present application in view of the following remarks.

35 U.S.C. § 102 Rejections

Claims 1-34 are rejected under 35 U.S.C. § 102(e) as being anticipated by Edholm, U.S. Pub. No. US2003/0067940.

A claim is anticipated only if each and every element of the claim is found in a reference (M.P.E.P. § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). The Applicant respectfully submits that the cited reference fails to disclose each and every element of the claimed invention.

Claim 1 expressly recites:

“disabling a normal incoming packet procedure in response to the level of the packet queue satisfying an entry condition and enabling an alternate incoming packet procedure” (emphasis added).

Edholm is directed to end node pacing. Edholm discloses pacing systems where the output of packets from a server is designed to match the receipt capabilities of an end node [0023]. When pacing is implemented at a server, the server tracks how fast a receiving unit can receive data and the server modifies its transmission rate accordingly [0024 and 0037].

In a client based pacing system, the receiving device defines a predetermined bandwidth and maintains the transmission at the transmitting device to remain within the predetermined bandwidth [0025]. Edholm discloses a control application 332 to control the transmission of packets from a client by controlling the latency between the transmissions of packets [0030]. Figure 6 is a flow diagram illustrating a procedure by which control application 332 determines whether transmission of the packet to a destination port will cause a transmission rate of packets to the destination port to exceed an allocated bandwidth [0036].

However, Edholm fails to disclose “disabling a normal incoming packet procedure in response to the level of the packet queue satisfying an entry condition and enabling an alternate incoming packet procedure” as expressly claimed by the Applicant.

Thus, Edholm fails to disclose at least one of the expressly recited limitations of claim 1. Accordingly, the present invention is not anticipated by Edholm. Independent claims 22, 25, and 30 distinguish for at least the same reasons as claim 1. Claims 2-21, 23-24, 26-29 and 31-34 are dependent claims and distinguish for at least the same reasons as their independent base claims in addition to adding further limitations of their own. Therefore, the Applicant respectfully requests that the instant § 102 rejections be withdrawn.

Conclusion

The Applicant submits that in view of the remarks set forth herein, all pending claims are in condition for allowance. Therefore, the Applicant respectfully requests the Examiner to issue a Notice of Allowance in this case.

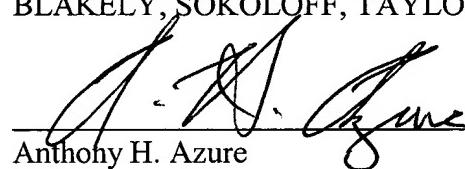
Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: June 7, 2004


Anthony H. Azure
Reg. No. 52,580
Phone: (206)-292-8600